IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL WRIT PETITION NO. 10681 OF 2006

DATE OF DECISION: OCTOBER 12, 2006

Parties Name

Harvinder Kaur

..PETITIONER

VERSUS

State of Punjab and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BLE MR. JUSTICE PRITAM PAL

PRESENT: Mr. Dinesh Kumar,
Advocate, for the petitioner.

Mr. P.S.Chhina, Addl. A.G., Punjab

Mr. T.P.Singh, Advocate;

JASBIR SINGH, J. (oral)

Order.

Petitioner, who is Sarpanch of Gram Panchayat, Bikkon, block and district Ropar, has filed this writ petition with a prayer that a writ of certiorari be issued to quash order dated March 21, 2006, (Annexure P-4), endorsed on March 27, 2006, vide which she was put under suspension and also order dated March 21, 2006 (Annexure P-5), endorsed on April 7, 2006, vide which fresh enquiry has been ordered against her.

It is contention of counsel for the petitioner that it was allegation against the petitioner that she had got cut some trees from the land, belonging to the Gram Panchayat, and in this manner, she has caused loss to the Gram Panchayat. On a complaint, enquiry was conducted and the competent officer, i.e., Deputy Director, exercising the powers of the

Director, Panchayat, Punjab, has passed the order Annexure P-1 on April 1, 2005, exonerating the petitioner. A specific finding was given that the trees, if any, were cut before the tenure of the petitioner and for that, recovery can be effected from Gurudwara Committee and also Ex-Sarpanch of the village. By referring to order Annexure P-1, counsel states that initiation of the second enquiry was bad as the order Annexure P-1 was not interfered with or modified by any of the higher officers. At the time of arguments, counsel for the respondents have failed to controvert the arguments raised by counsel for the petitioner. It has not been brought to the notice of the Court as to whether at any time, order Annexure P-1 was challenged or any higher officer than the Director, Panchayat, Punjab, has interfered in the same. It has only been said that on receipt of a fresh complaint, second enquiry was conducted, wherein she was found guilty and charge-sheet was issued to her. Be that as it may, once the order Annexure P-1 has become final, it was not open to the authorities to initiate fresh enquiry on the same charges, regarding which the petitioner was exonerated. Relevant portion of the order Annexure P-1 reads thus:

> "In view of the position, the following facts have emerged that the threes were used by the Gurudwara Committee during the tenure of old Panchayat which were used for the fuel and building of the Gurdwara Sahib. These trees were not axed during the term of the present Sarpanch. In this regard, it is written that the Financial loss caused to the Gram Panchayat due to removing of the trees be recovered from the Gurudwara Committee. Besides, the Ex-Sarpanch is equally responsible during whose tenure the trees were removed. Therefore, this loss to the Panchayat be made good at own level."

Extract of the order, referred to above, clearly indicates that a positive finding was given by the competent officer that the petitioner was not guilty. If that was so, it was desirable for the authorities concerned or to the complainant to lay challenge to the said order. Unless that order is rectified or set aside, it was not open to the authorities to initiate second enquiry on those very charges.

In view of the facts, given above, this writ petition is allowed and the orders impugned are set aside.

(Jasbir Singh)
Judge

(Pritam Pal)
Judge

October 12, 2006.
DKC